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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

P.M. \_\_\_\_\_  
TIME AM. \_\_\_\_\_  
X

SIDNEY HAWKINS,

Petitioner,  
-against-

REPORT AND  
RECOMMENDATION  
OF UNITED STATES  
MAGISTRATE JUDGE  
A. SIMON CHREIN

JOSEPH COSTELLO, Superintendent, Mid State  
Correctional Facility,

00 CV 1343 (SJ)(ASC)

Respondent.

X

By Order dated June 24, 2002, The Honorable Sterling Johnson Jr. referred the above-captioned matter to the undersigned magistrate judge for a Report and Recommendation concerning respondent's motion to dismiss petitioner's petition for habeas corpus pursuant to 28 U.S.C. 2254. By Report dated January 7, 2003, I found that the trial court erred when it precluded petitioner from questioning Police Officer McCormick about whether petitioner's acquaintance, Eddie-Ed told Officer McCormack that he, and not petitioner owned the gun that petitioner was convicted of possessing. I ordered a hearing limited to the question of whether Eddie-Ed admitted to owning the gun. However, when counsel appeared before me on May 15, 2003, I rescinded that hearing so that petitioner could develop further evidence of the existence of Eddie-Ed's statement. Subsequently, I sent a letter to counsel in which I set a deadline of October 31, 2003 for petitioner to produce such evidence. Because no evidence has been forthcoming, it is the

respectful recommendation of the undersigned that petitioner's petition for habeas corpus be denied. Any objections to the recommendations contained herein or contained in the Report issued January 7, 2003 must be filed with Judge Johnson on or before January 26, 2004. 28 U.S.C. § 636; Fed. R. Civ. P. 6, 72. Failure to object will preclude appellate review.

Dated: Brooklyn, New York  
January 12, 2004

  
A. SIMON CHREIN  
United States Magistrate Judge

*Copies mailed to:*

Sidney Hawkins  
#95-A-2469  
Hudson Correctional Facility  
P.O. Box 576  
Hudson, New York 12534

Phyllis Mintz, Esq.  
District Attorney of Kings County  
Renaissance Plaza at 350 Jay Street  
Brooklyn, New York 11201

Michael Weil, Esq.  
Staff Attorney  
Federal Defender Division  
Eastern District of New York  
The Legal Aid Society  
16 Court Street  
Brooklyn, NY 11241